IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

Bail Appl..No. 6140 of 2007()

CP.76/2006 of J.M.F.C.,KUNNAMKULAM
.....
(CRIME NO.419/03 OF THE KUNNAMKULAM POLICE STATION)

PETITIONER/ACCUSED NO.4:

BASHEER, S/O. ABDULLAKUTTY,
THAZHATHETHIL VEEDU, CHIRAMANENGAD,
KUNNAMKULAM P.O., THRISSUR DISTRICT.

BY ADV. SRI.SUNNY MATHEW

RESPONDENT: COMPLAINANT:

STATE OF KERALA, THROUGH THE
SUB INSPECTOR OF POLICE, KUNNAMKULAM POLICE
STATION, REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R. BASANT, J.

B.A. No. 6140 OF 2007

Dated this the 10th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner is the 5th accused in Crime No.419/03 of the Kunnamkulam Police Station in which final report has already been filed alleging the offences punishable, inter alia, under Sec.413 of the IPC. Final report has been filed. Cognizance has been taken. Committal proceedings has been registered before the learned Magistrate. The petitioner has not appeared before the learned Magistrate so far. The learned Magistrate has issued coercive processes against the petitioner.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He is willing to surrender before the learned Magistrate and seek regular bail. The petitioner apprehends that his application for regular

bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits

and expeditiously – on the date of surrender itself.

4. It is noted that the petitioner is the 5th accused and not the 4th accused in C.P.No.76/06 pending before the Judicial Magistrate of the First Class, Kunnamkulam, as clarified by the learned Public Prosecutor.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge